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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HARRELL, ROBERT B

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/002,522	Applicant(s) LEBIZAY ET AL.	
	Examiner Robert B. Harrell	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 87-99 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 87-99 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see attached Office Action</u> . |

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1. Claims 87-99 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. The textual portion of the specification is replete with grammatical and idiomatic errors to numerous too mention specifically. The specification should be revised carefully.
4. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks TM, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., "the number" in the claims, such as line 4 of claim 87 and other claims, lacks clear antecedent bases; correction is required). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
5. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions nor who performs the acts and/or functions (i.e., when a packet format is designed, a human selects a certain number of segment IDS and data segments).
27. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

6. Claims 87-99 are rejected under 35 U.S.C. 102 (e) as being anticipated by Perkins et al. (US 6,865,150 B1).

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7. The claims state, in part, "one or more", thus, because of "or", the claims can be viewed when the number, for each claimed element, is only one. Thus reading the claims in view of only "one" for each claimed element, the claims are drawn to a single segment id and single data segment (i.e., in a packet format of [channel-number][data]); which was conventional in the art). In view of such, the following rejection, and grounds for the rejection, is forwarded under 35 U.S.C. 102(e).

8. Per claim 87, Perkins taught (e.g., see figure 5B) a method comprising assigning one or more segment IDs (572 of figure 5B) to one or more channels (e.g., see col. 7 (line 67)) associated with one or more digitized segments of data (e.g., see figure 5B (574)), and determining a boundary number (i.e., 3 or 4 per figure 5B and col. 8 (lines 11-20 (if no padding then the number was selected to be 4))) that represents the number of segment IDs to be aggregated into a first section (i.e., the sum of one or more CPS HDRs and those bits) and the number of corresponding digitized segments of data (i.e., 3 or 4 per figure 5B and col. 8 (lines 11-20 (if no padding then the number was selected to be 4))) to be aggregated into a second section (i.e., the sum of one or more PAYLOAD and those bits), and aggregating the determined boundary number of segment IDs into the first section, wherein the segment was shared a destination node (i.e., see col. 7 (line 62-et seq. (sharing the channels among the PAYLOADS))), and aggregating the determined boundary number of digitized segments of data into the second section (e.g., see figure 5B), wherein each aggregated digitized segment of data in the second section was associated with a segment ID in the first section (e.g., see figure 5B and col. 7 (line 62-et seq.)).

9. While figure 5B showed more than one PAYLOAD, viewing the first CPSA HDR (572) and PAYLOAD (574), only, reads on the claimed "one" as recited in the claim. As can be seen in figure 5B the number of bits in the segment ID (572) was "aggregated" into a first section prior to an aggregated number of bits in the PAYLOAD (574) of a second section.

10. Per claim 88, such padding was taught in col. 8 (lines 11-20).

11. Per claim 89, the number four was addressed above with respect to claim 87 above.

12. Per claim 90, such was covered in col. 7 (lines 62-66).

13. Per claims 91 and 92, see figure 2 (215 and/or 230) which anticipated all known networks including Ethernets that used MAC.

14. Per claims 93 and 94, see col. 3 (lines 44-50).

15. Per claims 95-97, since phone lines were used, PCM was inherently anticipated for TDM (i.e., figure 5B was a multiplexed data format) while figure 1 covered ATM.

16. Per claim 98, see figure 5B "PAYLOAD".

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17. Per claim 99, see col. 6 (line 27).

18. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this office action:

a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103, examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligations under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. 102 (f) or (g) prior art under 35 U.S.C. 103.

20. Claims 87-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins et al. (US 6,865,150 B1).

21. That which was anticipated was obvious.

22. As mentioned above, the claims recite "one or more". When the claims are viewed with only one of each recited element, the claims read on one segment ID and one data segment (i.e., in a basic two section packet format of [channel number][data segment], well known in the art; that is, a basic two bit channel number as a segment ID section that identified over which one of four channels the data segment should traverse). In view of such, taking figure 5B of Perkins, there is clearly shown one segment ID section (CPS HDR (572)) and one data segment section (PAYLOAD (574)). The bits in the segment ID were aggregated prior to an aggregated number of data bits. HOWEVER, it would have been obvious to those skilled in the data processing art to aggregate all CPS HDRs (572) prior to all PAYLOADs (574) since bit order of such a data structure was a matter of routine design choice. In like vein, the aggregated grouping of CPS HDRs could be clustered together between two PAYLOAD sections or at the end of all PAYLOADS, or some design choice permutation thereof. Bit locations were apart of a PROTOCOL selectively designed by humans. Thus, clustering the segment IDs prior to the data segments would have been obvious to those skilled in the art because IDs and data would be isolated among each other. Since such was dependent on a PROTOCOL, rearranging the bits must be informed to all applications and hardware so logical sense of information is not lost. Moreover, the claims do not recite where the aggregation occurs and thus the uniformed staggered aggregation shown in figure 5B reads on the defined claimed invention.

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23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

24. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (571) 272-3896. The fax phone number for all papers is (703) 872-9306.

27. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142